

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Abel FONSECA-Oros,

Defendant

Magistrate Docket No.

'08 MJ 1647

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **May 23, 2008**, within the Southern District of California, defendant, **Abel FONSECA-Oros**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

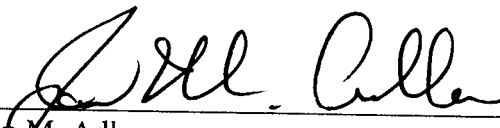
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James E. Bailey  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 27<sup>th</sup> DAY OF MAY 2008.



Jan M. Adler  
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:  
Abel FONSECA-Oros**

**PROBABLE CAUSE STATEMENT**

I declare under the penalty of perjury that the following statement is true and correct:

On May 23, 2008, U.S. Border Patrol Agents J. Estacuy and A. Rodriguez were assigned to the I-15 Checkpoint in Temecula, California.


At approximately 7:00 p.m., the Border Patrol I-15 Checkpoint received a phone call requesting a translation request from the Escondido Police Department in Escondido, California.

Agent Rodriguez responded to the Escondido Police Station where they had one subject in custody. Agent Rodriguez met with Police Officer Whitaker (ID#352) and identified himself as a U.S. Border Patrol Agent to the subject in custody. The subject later identified as defendant **Abel FONSECA-Oros**, had been arrested for driving without a valid California driver's license. He was cited and his vehicle was towed by the Escondido Police Department. After translation was completed for Officer Whitaker, Agent Rodriguez questioned the defendant about his citizenship. The defendant freely admitted to being a citizen and national of Mexico. The defendant also admitted to being in the United States illegally without any valid immigration documents. Agent Rodriguez placed the defendant under arrest and transported him to the Murrieta Border Patrol Station for processing.


Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on November 15, 2005 through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights, which he acknowledged and was willing to make a statement without an attorney present. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States legally.

Executed on May 25, 2008 at 10:00 AM.

  
Tomas M. Jimenez  
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on May 23, 2008, in violation of Title 8, United States Code, Section 1326.

  
Jan M. Adler  
United States Magistrate Judge

May 25, 2008 @ 9:48 a.m.  
Date/Time